

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of:

THE GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA,

An Authorized Insurer.

No. D 05-301

CONSENT ORDER
IMPOSING A FINE

FINDINGS OF FACT

1. The Guardian Life Insurance Company of America ("Guardian") is an insurance company authorized to engage in the business of insurance in Washington by the Washington State Office of Insurance Commissioner ("OIC") pursuant to a certificate of authority issued by the OIC.
2. Guardian issued a group life and accidental death and dismemberment policy, Plan number 367713, to a Washington insurance agency, effective December 15, 1997, insuring the lives of individuals who were employed by the agency but who had no ownership or substantial legal or equity interest in it.
3. Guardian knew that the intent of the group policy holder in purchasing the policy was that the insured employees would name the insurance agency as their beneficiary, and the insured employees completed beneficiary designations naming their employer as the beneficiary, which designations were filed with, and accepted by, Guardian.
4. In 2004, after an agency employee insured under the policy died, Guardian recognized that the employees' beneficiary designations conflicted with RCW 48.24.20, and Guardian eventually paid the death benefit to the deceased employee's surviving spouse after obtaining a release of the employer's claim.

CONCLUSIONS OF LAW

1. The group contract issued by Guardian to the employer insured employees who did not have a common interest through ownership of the business enterprise, or a

substantial legal interest or equity therein, and who were not actively engaged in the management thereof, and the policy lawfully could be delivered or issued for delivery in this state pursuant to RCW 48.24.010 only to one of the groups provided for in RCW Chapter 48.24.

2. Pursuant to RCW 48.24.020 the lives of a group of employees may be insured under a policy issued to an employer only if the policy insures the employees' lives for the benefit of persons other than the employer.
3. By issuing a group policy of life insurance to an employer for the benefit of the employer covering the lives of non-management employees with no ownership or substantial legal interest or equity in the employer business, Guardian violated RCW 48.24.020.
4. RCW 48.05.185 authorizes the Commissioner to impose a fine in lieu of or in addition to the suspension or revocation of an insurer's certificate of authority.

CONSENT TO ORDER

NOW, THEREFORE, Guardian consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings, and the Insurance Commissioner consents to settle the matter in consideration of Guardian's payment of a fine as set forth below.

1. Guardian consents to entry of the foregoing Findings of Fact and Conclusions of Law and this Order, acknowledges its duty to comply fully with the applicable laws of the State of Washington, and waives further administrative or judicial challenge to the OIC's actions related to the subject matter of this Order.
2. Within thirty days of the entry of the Order, Guardian agrees to pay to the OIC a fine in the total amount of \$5,000.
3. Failure to pay the fine set forth in paragraph two shall constitute grounds for the revocation of Guardian's certificate of authority and for the recovery of the full fine.

Executed this _____ day of _____, 2005.

The Guardian Life Insurance
Company of America

By: _____

Printed Name

Printed Corporate Title

ORDER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. The Guardian Life Insurance Company of America is ordered to pay a fine within thirty days in the amount of \$5,000.
2. Guardian's failure to pay the fine within the time limit set forth above shall result in the revocation of Guardian's Certificate of Authority and in the recovery of the fine amount through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT TUMWATER, WASHINGTON, this _____ day of _____, 2005.

MIKE KREIDLER
Insurance Commissioner

By: _____
CHARLES D. BROWN
OIC Staff Attorney
Legal Affairs Division